



# STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE ENROLLED BILL ANALYSIS

# DRAFT

Date:	Enrolled	Bill No:	<a href="#">Assembly Bill 163</a>
Tax Program:	Sales and Use	Author:	Atkins
Sponsor:	Navy Region Southwest	Code Sections:	RTC 6363.4
BOE Position:	Support	Effective Date:	Upon Enactment

## BILL SUMMARY

This bill extends from January 1, 2014 to January 1, 2024 the sunset date applicable to the sales and use tax exemption for specified military-related nonprofit thrift store sales.

## ANALYSIS

### CURRENT LAW

Except where the law provides a specific exemption or exclusion, California's Sales and Use Tax Law<sup>1</sup> imposes the sales tax on all retailers for the privilege of selling tangible personal property at retail in this state or for the use tax on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer.

The law does not generally exempt from tax sales or purchases by nonprofit organizations, sellers or purchasers engaged in charitable activities, or those who enjoy certain income tax or property tax privileges. However, several specific statutes benefit various nonprofit groups engaged in charitable activities. For example, the law<sup>2</sup> exempts specific military-related thrift store sales from the sales and use tax until January 1, 2014. This section provides that thrift store sales are exempt from sales and use tax when nonprofit organizations operate the thrift stores on military installations and partner with the United States Department of Defense to provide financial, educational, and other assistance to United States Armed Forces members, eligible family members, and survivors in need.

Other provisions in law also exempt specified nonprofit thrift store sales from the sales and use tax. For example, a nonprofit organization's thrift store sales of used clothing, household items, or other retail items are exempt from sales and use tax, when the thrift store's purpose is to obtain medical, hospice, or social services funding for chronically ill individuals, as specified and defined.

Another exemption<sup>3</sup> applies to charitable organizations' sales if the organization qualifies for the property tax "welfare exemption."<sup>4</sup> To be exempt, the law requires that (1) the organization relieves poverty and distress; (2) the sales principally assist financially distressed purchasers; and (3) the organization makes, prepares, assembles, or manufactures the property sold. For example, Goodwill's and Salvation Army's thrift store sales qualify for this sales and use tax exemption because their thrift store premises qualify for the "welfare exemption" and they meet the other requirements in law.

<sup>1</sup> Part 1, Division 2 of the Revenue and Taxation Code (RTC) (commencing with Section 6001).

<sup>2</sup> RTC Section 6363.4 of the Sales and Use Tax Law.

<sup>3</sup> RTC Section 6375 of the Sales and Use Tax Law.

<sup>4</sup> RTC Section 214 of the Property Tax Law.

*This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.*

**PROPOSED LAW**

This bill amends Section 6363.4 to extend from January 1, 2014 to January 1, 2024, the sunset date for the sales and use tax exemption for military-related thrift store sales.

If enacted, the bill takes effect immediately.

**BACKGROUND**

In 2009, Senate Bill 765<sup>5</sup> added Sales and Use Tax Law Section 6363.4. All Board of Equalization (BOE) Members voted unanimously to sponsor SB 765 at the December 8, 2008 BOE Legislative Committee meeting. The BOE Members supported this narrowly crafted exemption with no sunset date, as they believed our service members and their families should not bear the additional sales tax expense added to their thrift store purchases. At the SB 765 legislative hearing, the Assembly Revenue and Taxation Committee added the sunset date.

Section 6363.4 applies to military welfare societies from all branches of the military. However, we understand that only the Navy-Marine Corps Relief Society (NMCRS) operates thrift stores.

Operating in partnership with the Navy and Marine Corps, the NMCRS is a nonprofit, charitable organization that qualifies for federal and state income tax exempt status.<sup>6</sup> The NMCRS provides financial, educational, and other assistance to U.S. Naval Services members and their eligible family members and survivors when they need it. To assist in relief services, the NMCRS operates 27 thrift stores, including seven at California Naval or Marine bases in San Diego, Barstow, Miramar, Camp Pendleton, Port Imperial Beach, Ventura and Lemoore. These thrift stores sell nominally-priced used clothing, uniforms, and household items to service members and their families. The thrift stores' sales income partly supports relief services to the Navy-Marine Corps community.

**COMMENTS**

1. **Sponsor and purpose.** The Navy Region Southwest sponsors this bill. According to the author's office, the NMCRS thrift stores provide an important service that supports military families. Maximizing the amount of money that assists veterans and active duty personnel is a small acknowledgment of the many sacrifices they have made for their fellow Californians.
2. **The April 9, 2013 amendments** added a 10-year sunset date and make a technical correction. The Assembly Revenue and Taxation Committee suggested the sunset date in its analysis: "...tax expenditures like the instant SUT exemption, may be enacted by a simple majority vote. Absent a built-in sunset date, however, tax expenditures cannot be rescinded without a supermajority vote. For this reason, this Committee has a longstanding policy in favor of including sunset dates in tax expenditure programs, to ensure the opportunity for periodic legislative oversight."
3. **Who shops at these thrift stores?** Located on military bases and not open to the general public, the NMCRS allows only military families and Department of Defense employees, including retirees and civilian contractors, to patronize these thrift stores.

---

<sup>5</sup> Dutton, Ch. 615, Stats. 2009.

<sup>6</sup> Title 26, Section 501(c)(3) of the United States Code for federal income tax purposes, and 23701d of the Revenue and Taxation Code for state income tax purposes.

**COST ESTIMATE**

The administrative costs are absorbable.

**REVENUE ESTIMATE**

The 2011 NMCRS *Annual Report* discloses miscellaneous receipts of \$950,000, principally from thrift store sales. Assuming these sales comprise 80 percent of those miscellaneous receipts, total thrift store sales amount to \$760,000. Because seven of the 27 thrift stores (26%) are located in California, we assume total exempt sales under this measure amount to \$197,600 (26% of \$760,000).

We multiplied total exempt sales of \$197,600 by 7.9%,<sup>7</sup> and estimate the annual state and local sales and use tax revenue loss of \$15,610, as follows:

State General Fund (4.1875%)	\$ 8,274
Local Revenue Fund 2011 (1.0625%)	2,099
State Fiscal Recovery Fund (.25%)	494
Local Revenue Fund (.5%)	988
Local Public Safety Fund (.5%)	988
Local and County (1%)	1,976
Special districts (.4%)	791
Total	<u>\$15,610</u>

Analysis prepared by: Sheila T. Waters (916) 445-6579 08/01/13

Contact: Michele Pielsticker (916) 322-2376

Is

0163abENRstw.docx

<sup>7</sup> The 7.9% rate is the average sales tax rate of the seven thrift stores as of January 1, 2013. Five thrift stores are located in 8% tax rate areas, and two are located in 7.5% tax rate areas.

*This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.*